

The Honorable Tana Lin

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PIKE PLACE MARKET PRESERVATION
AND DEVELOPMENT AUTHORITY, a
Washington public corporation,

Plaintiff,

v.

PIKE PLACE FISH MARKET, INC., a
Washington corporation,

Defendant.

NO. 2:23-cv-01373-TL

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING CERTAIN
DEADLINES**

Plaintiff Pike Place Market Preservation and Development Authority (the “PDA”) and Defendant Pike Place Fish Market, Inc. (“PPF”) collectively the “Parties”, by and through their undersigned counsel, hereby stipulate and agree as follows:

1. On September 6, 2023, the PDA filed this lawsuit and a Motion for Preliminary Injunction (Dkts. 1–9).

2. On September 21, 2023, the Parties filed a Stipulated Notice Regarding Deadlines Related to Plaintiff’s Motion for Preliminary Injunction and Related Terms to Allow for Mediation (Dkt. 18, “Stipulated Notice”).

1 3. Pursuant to the Stipulated Notice, the PDA's Motion for Preliminary Injunction
2 was re-noted for consideration on December 15, 2023 (Dkts. 19–25).

3 4. The Stipulated Notice also provided, among other things, that the deadline for
4 Defendant PPF “to answer or otherwise plead in response to the Complaint is extended to
5 November 3, 2023[.]” (Dkt. 18.)

6 5. On November 1, 2023, the Parties filed a Stipulated Notice Extending Certain
7 Deadlines (Dkt. 29, “Second Stipulation”), which provided, among other things, that the
8 deadline for PPF “to answer or otherwise plead in response to the Complaint is extended to
9 November 6, 2023” given the Parties’ continuing discussions further to their October 30, 2023
10 mediation.

11 6. On November 6, 2023, the Parties filed a Third Stipulated Notice Extending
12 Certain Deadlines (Dkt. 31), which provided, among other things, that the deadline for PPF “to
13 answer or otherwise plead in response to the Complaint is extended from November 6, 2023 to
14 November 10, 2023.”

15 7. The Court granted the Parties’ request and ordered, among other things, that
16 “[t]he deadline for Defendant to answer or otherwise plead in response to the Complaint is
17 EXTENDED to **November 10, 2023.**” Dkt. 32.

18 8. In granting that request, the Court stated: “the Parties are cautioned to review the
19 Court’s Standing Order and to comply with the Order going forward.” (Dkt. 32 at 2:9-10.)

20 9. On November 13, 2023, Defendant PPF filed: (a) a Motion to Dismiss Plaintiff’s
21 Claims and supporting declaration seeking to dismiss certain claims under Federal Rule of
22 Civil Procedure 12(b)(6) and for a more definite statement under Federal Rule of Civil
23 Procedure 12(e) (Dkts. 38–39, “Motion to Dismiss”); and (b) an answer and counterclaims
24 (Dkt. 40).

25 10. On November 17, 2023, the Parties met and conferred regarding the PDA’s
26 intent to file a motion to strike PPF’s Motion to Dismiss as untimely and for failing to comply

1 with the meet and confer requirement in Section II(D) and III(G) of the Court's Standing Order.
 2 PPF disagrees that its Motion to Dismiss was untimely or that its Motion to Dismiss falls within
 3 the meet and confer requirements of the Court's Standing Order.

4 11. The Parties agreed that to avoid the PDA having to file a motion to strike PPF's
 5 Motion to Dismiss, that PPF would withdraw its Motion to Dismiss without prejudice, as set
 6 forth in paragraph 13 below.

7 12. The Parties disagree about whether the PDA's Complaint meets the applicable
 8 pleading standards.

9 13. Given the pending Motion for Preliminary Injunction that is noted for
 10 consideration on December 15, 2023, and to avoid motions practice regarding amendment of
 11 the PDA's Complaint, the Parties further agreed as follows:

- 12 a. PPF will withdraw its Motion to Dismiss (Dkt. 38) without prejudice;
- 13 b. The PDA may amend its Complaint with PPF's consent pursuant to
 14 FRCP 15(a)(2) within 21 days after the Court's ruling on the Motion for
 15 Preliminary Injunction (Dkt. 19), or, if the PDA fails to do so within that
 16 time period, PPF may refile a Motion to Dismiss the Complaint within 35
 17 days after the ruling on the Motion for Preliminary Injunction;
- 18 c. If the PDA files an amended complaint, PPF shall file a responsive pleading
 19 to the amended complaint within 21 days thereafter.

20 14. The Parties do not seek to extend any existing deadline set by the Court, but to
 21 provide new deadlines as agreed upon above.

22 DATED this 21st day of November, 2023.

SAVITT BRUCE & WILLEY LLP

By s/Brandi B. Balanda

James P. Savitt, WSBA #16847
Brandi B. Balanda, WSBA #48836
Jacob P. Freeman, WSBA #54123
Chris J. Lindemeier, WSBA #55515
1425 Fourth Avenue Suite 800
Seattle, Washington 98101-2272
Telephone: 206.749.0500
Facsimile: 206.749.0600
Email: jsavitt@sbwLLP.com
Email: bbalanda@sbwLLP.com
Email: jfreeman@sbwLLP.com
Email: clindemeier@sbwLLP.com

*Attorneys for Plaintiff Pike Place Market
Preservation and Development Authority*

BAMERT REGAN PLLC

By s/John J. Bamert

John J. Bamert, WSBA #48128
113 Cherry Street, Unit 55215
Seattle, Washington 98104
Telephone: 206.669.2402
Email: Bamert@BamertRegan.com

TOUSLEY BRAIN STEPHENS PLLC

By s/Kim D. Stephens, P.S.

Kim D. Stephens, P.S., WSBA #11984
Rebecca L. Solomon, WSBA #51520
1200 Fifth Avenue, Suite 1700
Seattle, Washington 98101
Telephone: 206.682.5600
Facsimile: 206.682.2992
Email: kstephens@tousley.com
Email: rsolomon@tousley.com

Attorneys for Pike Place Fish Market, Inc.

~~PROPOSED~~ ORDER

Pursuant to the Parties' stipulation, Defendant PPF may withdraw its Motion to Dismiss (Dkt. 38) without prejudice. Plaintiff PDA may amend its complaint within 21 days after this Court issues its ruling on the pending Motion for Preliminary Injunction (Dkt. 19). Defendant PPF shall have 21 days after Plaintiff PDA files its amended complaint, if any, to file a responsive pleading. Should Plaintiff PDA not amend its complaint within 21 days after the Court issues its ruling on the Motion for Preliminary Injunction, Defendant PPF may re-file its motion to dismiss the current complaint (Dkt. 1) within 35 days after the Court's ruling on the Motion for Preliminary Injunction.

IT IS SO ORDERED.

Dated this 21st day of November 2023



Tana Lin
United States District Judge